

1-1 By: Leach, et al. (Senate Sponsor - Kolthorst, Hall) H.B. No. 16
 1-2 (In the Senate - Received from the House April 23, 2019;
 1-3 April 25, 2019, read first time and referred to Committee on Health
 1-4 & Human Services; May 13, 2019, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 5, Nays 3;
 1-6 May 13, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14		X		
1-15		X		
1-16		X		
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 16 By: Buckingham

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the enforcement of the rights of a living unborn child
 1-22 after an abortion; providing a civil penalty; creating a criminal
 1-23 offense.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The heading to Section 151.002, Family Code, is
 1-26 amended to read as follows:

1-27 Sec. 151.002. RIGHTS OF A LIVING CHILD AFTER AN ABORTION OR
 1-28 PREMATURE BIRTH; CIVIL PENALTY; CRIMINAL OFFENSE.

1-29 SECTION 2. Section 151.002, Family Code, is amended by
 1-30 adding Subsections (c), (d), (e), (f), and (g) to read as follows:

1-31 (c) For purposes of this section, a physician-patient
 1-32 relationship is established between a child born alive after an
 1-33 abortion and the physician who performed or attempted to perform
 1-34 the abortion. The physician must exercise the same degree of
 1-35 professional skill, care, and diligence to preserve the life and
 1-36 health of the child as a reasonably diligent and conscientious
 1-37 physician would render to any other child born alive at the same
 1-38 gestational age. In this subsection, "professional skill, care, and
 1-39 diligence" includes a requirement that the physician who performed
 1-40 or attempted the abortion ensure that the child born alive be
 1-41 immediately transferred and admitted to a hospital.

1-42 (d) A woman on whom an abortion, as defined by Section
 1-43 245.002, Health and Safety Code, is performed or attempted to be
 1-44 performed may not be held liable under this section.

1-45 (e) A physician who violates Subsection (c) by failing to
 1-46 provide the appropriate medical treatment to a child born alive
 1-47 after an abortion or an attempted abortion is liable to the state
 1-48 for a civil penalty of not less than \$100,000. The attorney general
 1-49 may bring a suit to collect the penalty. In addition to the civil
 1-50 penalty, the attorney general may recover reasonable attorney's
 1-51 fees. The civil penalty described in this subsection is in addition
 1-52 to any other recovery authorized under other law.

1-53 (f) A person who has knowledge of a failure to comply with
 1-54 this section shall report to the attorney general. The identity and
 1-55 any personally identifiable information of the person reporting the
 1-56 failure to comply with this section is confidential under Chapter
 1-57 552, Government Code.

1-58 (g) A physician or health care practitioner who violates
 1-59 Subsection (c) by failing to provide the appropriate medical
 1-60 treatment to a child born alive after an abortion or an attempted

2-1 abortion commits an offense. An offense under this subsection is a
2-2 felony of the third degree.

2-3 SECTION 3. Section 151.002, Family Code, as amended by this
2-4 Act, applies only to a child born alive on or after the effective
2-5 date of this Act.

2-6 SECTION 4. The change in law made by this Act applies only
2-7 to the prosecution of an offense committed on or after the effective
2-8 date of this Act. The prosecution of an offense committed before
2-9 the effective date of this Act is governed by the law in effect on
2-10 the date the offense was committed, and the former law is continued
2-11 in effect for that purpose. For purposes of this section, an
2-12 offense is committed before the effective date of this Act if any
2-13 element of the offense occurs before the effective date.

2-14 SECTION 5. This Act takes effect September 1, 2019.

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